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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/506,687	06/17/2005	Philip St John Russell	1034279-000065	5680

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BUCHANAN, INGERSOLL & ROONEY PC  
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EXAMINER
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DEGHAN, QUEENIE S

ART UNIT	PAPER NUMBER
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1791

NOTIFICATION DATE	DELIVERY MODE
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10/06/2009

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/506,687	<b>Applicant(s)</b> RUSSELL ET AL.	
	<b>Examiner</b> QUEENIE DEGHAN	<b>Art Unit</b> 1791	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 07 August 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 97-104 and 108-114 is/are pending in the application.
- 4a) Of the above claim(s) 101-103 and 113 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 97-100, 104, 108-112 and 114 is/are rejected.
- 7) ☒ Claim(s) 110 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Claim 97 is generic to the following disclosed patentably distinct species: the embodiment of the connector associated with figure 3a and the embodiment of the connector associated with figure 4. The species are independent or distinct because as disclosed the different species have mutually exclusive characteristics for each identified species. In addition, these species are not obvious variants of each other based on the current record.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

There is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

**Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species to be examined** even though the requirement may be traversed (37 CFR 1.143) **and (ii) identification of the claims encompassing the elected species**, including any claims subsequently added. An argument that a

Art Unit: 1791

claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

The election of the species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the election of species requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected species.

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the species unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other species.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141.

2. During a telephone conversation with Bill Rowland on 9/18/09 a provisional election was made without traverse to prosecute the invention of the embodiment disclosed in figure 4, claims 97-100, 104, 108-112 and 114. Affirmation of this election

Art Unit: 1791

must be made by applicant in replying to this Office action. Claims 101-103 and 113 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

3. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

#### ***Claim Objections***

4. Claim 110 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 110 recites a limitation that is already recited in independent claim 97.

#### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 109 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not

Art Unit: 1791

described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The specification does not appear to offer support for this claim. If the examiner has erred in this, please refer to the page and line number where support can be found.

8. Claims 111 and 112 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 111 recites "each chamber comprising a base comprising holes going through the base". Although figure 4 depicts two bottom bases that can be described by claim 111, the top base does not have "holes" going through the base. Therefore, the specification fails to disclose each chamber comprising a base comprising holes going through the base.

9. Claim 114 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claim 114 recites "each section including a plurality of holes ". Although figure 4 depicts two bottom sections with a plurality of holes, the top section does not have "holes" going through the section. Claim 114 further recites each chamber including a passage connecting the chamber to a port.

Art Unit: 1791

The specification does not offer support for "port(s)" or the combination of holes and passage. If the examiner has erred in this, please refer to the page and line number where support can be found.

10. Claim 114 recites the limitation "the respective chamber" in line 4. There is insufficient antecedent basis for this limitation in the claim.

11. Claims 99, 104, and 108-109 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 99 recites "receive ends of one or more of the tubes preform" in lines 2-3. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 97-100, 104, 108-110 are rejected under 35 U.S.C. 102(e) as being anticipated by Dawes et al. (2003/0230118). Dawes discloses a connector for connecting a preform which is a microstructured fibre comprising a plurality of holes to a pressure source, the connector comprising two chambers (114, 116) wherein each chamber is arranged to mate with one or more holes of the preform and at least one of

Art Unit: 1791

the chamber (116) is arranged to mate with a plurality of holes of the preform, while both chambers are connected to a pressure source (figure 12, [0046]).

3. Regarding claim 98, the two chambers are connectable individually to different pressure source ([0046]).

4. Regarding claim 99, the connector comprises chambers that are made up of tubes, which have apertures arranged to receive ends of the one or more tubes of the preform, such that the tubes terminate in the chambers (figure 12).

5. Regarding claim 100, the chambers are in fluid communication with a passage that is connectable to the pressure source (figure 12, [0046]).

6. Regarding claim 104, the two chambers are distributed in the connector along the direction in which the tubes of the preform are intended to pass through the apertures as well along the direction orthogonal to that (figure 12). That is the chambers are located side by side one another as well as one on top of another.

7. Regarding claim 108. the connector is adapted to receive tubes of different length, as can be seen in figure 12 where the center tube is longer.

8. Regarding claim 109, the width of the chamber is larger than the diameter of the individual tubes (figure 12).

9. Claims 111-112 are rejected under 35 U.S.C. 102(e) as being anticipated Cain et al. (5,599,371). Cain discloses a connector comprising a plurality of chambers (i.e. 102, 104-107) arranged in a stack (fig. 6), each chamber comprising a base with holes going through the base providing passage from the chamber to a neighboring chamber in the stack (figures 4 and 5). The chambers are connectable to a pressure source (col. 7



Art Unit: 1791

lines 45-50). The holes in the bases are capable of allowing passage of a tubular shaped object from one chamber to a neighboring chamber (as demonstrated by the fume tube 108 that passes through the central hole).

10. Claim 114 is rejected under 35 U.S.C. 102(e) as being anticipated by Roba et al. (2004/0261460). Roba discloses a connector comprising a plurality of sections arranged in a stack extending in a longitudinal direction from a first end to a second end (figure 1), each section including at least two chambers (i.e. section comprising 209 and 208 or section comprising 207, 206 & 205) and a plurality of holes extending longitudinally from the respective chamber in that section through to the first end of the stack (located at the top of the figure). That is each section has at least two chambers, each chamber has one hole, therefore, each section has a plurality of holes. Roba further discloses each of said chambers also including a respective passage (i.e. 401) connecting the respective chamber to a port (i.e. 402) on the respective section so that each chamber is individually connectable to a respective pressure source (figures 1-3, [0050]).

### ***Response to Arguments***

11. Applicant's arguments with respect to claim 97 and the newly added claims 108-114 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1791

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to QUEENIE DEGHAN whose telephone number is (571)272-8209. The examiner can normally be reached on Monday through Friday 9:00am - 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571-272-1189. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1791

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/STEVEN P. GRIFFIN/  
Supervisory Patent Examiner, Art  
Unit 1791

Q Dehghan